

Who is responsible for sectional title repairs - owner or body corporate?

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Owners in sectional title schemes often think that the body corporate is automatically responsible to repair damage to their section if the damage is the result of some failure of the [common property](#).



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The basic maintenance and repair responsibilities are set out in the Sectional Titles Schemes Management Act “the Act” in Section 3, Functions of the body corporate and Section 13, Duties of owners. The body corporate must maintain all the common property and keep it in a state of good and serviceable repair, and an owner must repair and maintain his or her section in a state of good repair.

Of course, failure to maintain the property for which one is responsible often has an adverse effect on other property. Examples are leaking roofs and showers that damage the sections below. But not all damage is caused by neglect.

Quite common examples of the cause of serious repair issues are subsidence and foundation failure, which are not usually maintenance issues. Cracks in floors and walls can be the result and, in extreme cases, compromise of the building’s structural integrity. While the damage to property is not always extensive, water ingress causing damp can be very difficult and expensive, and sometimes impossible, to cure. What is the body corporate’s responsibility in these situations, and does it extend to the repair of damage to sections?

It's obvious that, in the examples above, the owner with the leaking shower must have the leak repaired, and the body corporate must repair the roof leak and the failure of the foundations, but do they have some responsibility for the resultant damage to sections?

The Act apportions the legal responsibility for maintenance and repair of the common property to the body corporate, and maintenance and repair of sections to their owners. It does not deal with responsibility for consequential or resultant damage. The body corporate is not, therefore, automatically responsible for the repair of damage to sections caused by a failure of the common property, but the owner concerned is entitled to make a claim for the reasonable cost of the repair from the body corporate. Likewise, the owner whose section is damaged by a leak from another section is entitled to claim the cost of their repair from the other owner.

Making a claim from the body corporate, or another owner, could be as simple as sending a copy of the repair invoice and payment receipt with a polite request for reimbursement. If the request is refused, the owners may seek assistance from the Community Scheme Ombud.

The Community Schemes Ombud Service Act provides a list of orders that applicants for dispute resolution can request. These orders deal with a range of community scheme financial, behavioural, and physical issues. Included are an order that a person carry out specified repairs, and an order that a person pay an amount, decided on by an adjudicator, as reimbursement for repairs made by the applicant.

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